

Appeal Decision

Site visit made on 27 September 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2016

Appeal Ref: APP/L1765/W/16/3150895

2 Park Close, Winchester, Hampshire, SO23 7BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ed Doman against the decision of Winchester City Council.
 - The application Ref 15/02902/FUL, dated 21 December 2015, was refused by notice dated 11 March 2016.
 - The development proposed is removal of current fence around the boundary of our property, and professional replacement with 1800mm high wooden fencing.
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Decision

1. The appeal is allowed and planning permission is granted for removal of current fence around the boundary of our property, and professional replacement with 1800mm high wooden fencing at 2 Park Close, Winchester, Hampshire, SO23 7BD in accordance with the terms of the application, Ref 15/02902/FUL, dated 21 December 2015.

Procedural Matter

2. As the development has already been carried out, I have considered this appeal as relating to an application made under S73A of the Town and Country Planning Act 1990, as amended.

The Main Issues

3. The main issues in this appeal are the effect of the development on:
 - a. The character and appearance of the area; and
 - b. The health of trees adjacent to the fence.

Character and appearance

4. The appeal property is a detached two-storey dwelling in a residential cul-de-sac having a prominent and large rear garden that backs onto two main roads, Park Road and Worthy Road. Previously the boundary treatment consisted of a mix of hedges and wooden fence panelling and chain link fences. This has been removed and replaced by a 1.8m timber fence with concrete posts tight against the boundary line. There are mature trees on site, some of which are protected by a tree preservation order (TPO).
 5. The surrounding area has a mix of open frontages, hedges, flint walls and fences of varying heights, with vegetation to the boundaries. The Council
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states that timber fences in the vicinity do not appear to have planning permission, however no further detail is provided. Some of the examples of other fences are quite weathered. A few only are characterful, where they are seen with surrounding vegetation. However the topography about them differs from the appeal site and I have decided the appeal on its own merits.

6. The Council's High Quality Places: *Supplementary Planning Document* 2015 (SPD) states that where boundary structures are visible from the public realm, the materials used need to be of high quality. Timber might be acceptable but it is important to avoid "utilitarian close boarded fencing adjacent to public ground", (the adverse impact of which is seen in some submitted examples).
7. The fence is visible from Worthy Road and Park Road where its prominence is largely due to its unweathered appearance and its continuous form that sweeps down and around the perimeter of No 2. The fence appeared to me sturdy and of high quality. Further, a large section of its exterior base is now covered with vegetation which assists to assimilate it into its public surroundings. In these respects I consider that it would comply with the SPD's requirements.
8. In addition the height of the fence provides privacy and security that would reasonably be expected for a rear garden in this unusual location, whilst allowing views of the attractive native trees and shrubs within.
9. The Winchester District Local Plan Part 2: *Development Management and Site Allocations* (Pre-Submission) Local Plan, remains in draft form and awaits a report of an independent examination. In addition it is not explained how draft Policies DM14, DM15 and DM23 apply to the development and, given these factors, only limited weight can be given to them.
10. From what I saw on my site visit and the written evidence I am satisfied that the development is appropriate to the appearance of the host property and would not unacceptably undermine the character or appearance of the street scenes or wider area. In this respect it would comply with SPD and Policy DP3 of the Winchester District Local Plan Review 2006 (LP) in that its design, scale and layout would be of high quality and respond positively to the character, appearance and variety of the local environment.

Health of trees

11. The Council was concerned that no adequate information had been provided that would allay concerns that the fence would impair the long term health of adjacent trees, including those protected by the TPO.
12. A tree survey has subsequently been provided of the trees deemed to be potentially affected: two beech trees and one yew tree situated inside the new boundary fence. It notes that a concrete post has been cemented into the ground some 30cm from the main stem of the purple beech. There were no signs of die back or ill-health associated with root damage or disturbance. Removal of the concrete post or fencing is not recommended as this in itself might cause damage to the tree and roots. The second beech is in generally good condition and no remedial action is recommended. The survey also states that the yew appears to be healthy and exhibits no signs of ill-health, foliar discolouration or die back.
13. Damage to structural root zones from construction activities can take some time to become evident. However I note that the survey, by an independent

qualified arborist, was done some 16 months from the date when the fence was completed. In all the circumstances, I am not convinced that anything would be gained from removal, even by hand, of the concrete post at this stage.

14. TPO trees also have separate legislative protection and owners remain responsible for their condition and any damage they may cause. National Planning Policy Guidance states that it is important that trees are inspected regularly and necessary maintenance carried out to make sure they remain safe and healthy.¹ I have no reason to doubt that the appellant would heed such advice.
15. I conclude on this issue that the development would comply with LP Policy DP4 in that it would not, by reason of any likely detriment to health or otherwise, detract from, or result in the loss of trees, and would maintain an attractive environment.

Conclusion

16. For the above reasons and having considered all other matters the appeal is allowed.

Grahame Kean

INSPECTOR

¹ Paragraph: 002 Reference ID: 36-002-20140306